

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

SHANE MCCLANAHAN,

Plaintiff,

vs.

WARDEN LYNN GUYER,

Defendant.

CV 19–13–BU–BMM–KLD

ORDER

United States Magistrate Judge Kathleen L. DeSoto entered her Findings and Recommendations in this case on August 22, 2019 (Doc. 5.) She recommended that Plaintiff Shane McClanahan’s amended petition for a writ of habeas corpus under 28 U.S.C. § 2254 (Doc. 3) be denied. Judge Desoto also recommended that the Clerk of Court should enter a judgment of dismissal and a certificate of appealability should be denied. (*Id.*)

Neither party filed objections to the Findings and Recommendations, and thus both have waived the right to de novo review. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United*

*States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). Reviewing for clear error and finding none,

**IT IS ORDERED** that Judge DeSoto's Findings and Recommendations (Doc. 5) are **ADOPTED IN FULL**. Plaintiff Shane McClanahan's amended petition for a writ of habeas corpus under 28 U.S.C. § 2254 (Doc. 3) is **DENIED** as set forth in Judge Johnston's Findings and Recommendations.

DATED this 18th day of November, 2019.



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Brian Morris  
United States District Court Judge